REMARKS

1. Summary of Office Action

In the Office Action mailed July 5, 2007, the Examiner rejected claims 1-4, 9-12, 14-17, and 19-23 under 35 U.S.C. § 103(a) as being obvious over a combination of U.S. Patent No. 6,963,926 (Robinson), U.S. Patent No. 7,002,906 (Basso), and U.S. Patent No. 6,487,677 (Jantz). Further, the Examiner rejected claim 5 under 35 U.S.C. § 103(a) as being obvious over a combination of Robinson, Basso, Jantz, and U.S. Patent No. 6,810,343 (McKee). Still further, the Examiner rejected 7 under 35 U.S.C. § 103(a) as being allegedly obvious over a combination of Robinson, Basso, Jantz, and U.S. Patent No. 5,831,976 (Lin). In addition, the Examiner rejected claim 8 under 35 U.S.C. § 103(a) as being obvious over a combination of Robinson, Basso, Jantz, and U.S. Application No. 20001/0010681 (McCallister). And finally, the Examiner rejected claim 24 as being allegedly obvious over a combination of Robinson, Basso, Jantz, and Applicant's background section.

2. Status of the Claims

By this response, Applicant has amended claims 1 and 16. Now pending in this application are claims 1-12, 14-17, and 19-24 of which claims 1 and 16 are independent and the remaining are dependent. Further, Applicant has added dependent claims 25 and 26. Support for the amendments and for newly added dependent claims can be found on page 8, lines 16-17, Figures 2-3, and page 10, line 13 to page 11, line 6.

3. Claimed Invention

Figure 2 in Applicant's specification illustrates a channel evaluator 12, a bank of modems 32, a bank of processors 42, and a bank of application cards 50. As shown in Figure 2, channel

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evaluator 12 is coupled to each of devices in each the banks. Applicant's specification explains that channel evaluator 12 obtains "data regarding previous call connections." *See* page 10, lines 15-16. And "[a]fter obtaining the data, channel evaluator 12 generates statistical analysis as shown at block 104 [in Figure 3] based on the data." *Id.* at page 10, lines 19-20, and Figure 3.

In this regard, Applicant's claim 1 (and similarly claim 16) recites, among other functions, "providing a channel evaluator, the channel evaluator coupled to the plurality of channel resource devices in the communication platform" and "obtaining, at the channel evaluator, connection outcome results of previous call connections handled by the channel resource devices wherein the connection outcome results are indicative of channel resource device failures" and "after obtaining connection outcome results, generating, at the channel evaluator, a statistical analysis based at least in part, on the connection outcome results wherein the generated statistical analysis provides an indication of reliability of the channel resource devices located in the communication platform."

4.   **Cited Art**

   a.   **Robinson**

   Robinson is generally directed to a method of using a routing table to route messages from one node to another. *See* Robinson at column 5, line 66 to column 6, line 5, Figures 3-6, and column 8, lines 47-57. In particular, Robinson teaches that the routing table stores "a primary pre-planned route and at least a second planned route, to each of the other nodes." *Id.* According to Robinson, the "primary, i.e. highest ranking, route is to be tried first for calls for which the node is the actual source or the virtual source, and, when the primary route is not available, e.g. because of a link failure or a node failure, the next highest ranking route is tried,

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and so on, depending on the number of alternative routes in the set." *Id.* at column 6, lines 5-10. In this regard, each node (*see* column 5, line 66) in Robinson's communication network 10 has a routing table, which stores a primary pre-planned route and a secondary planned route.

b.   Basso

Basso's Figure 1 illustrates a scenario in which a link between node 26 and node 28 is blocked (illustrated as a cross between nodes 26 and 28). When a route is blocked, such as the route illustrated in Basso's Figure 1 between nodes 26 and 28, crankback information is generated and then sent to entry node 22. Node 22 then attempts to send the message via an alternate route, such as via nodes 30 and 32. In this regard, Basso is directed to a method of routing messages via nodes in a network.

c.   Jantz

Jantz is directed to a method of resolving error conditions in a managed device. For instance, as shown in Figure 2, Jantz is concerned with providing diagnostic recovery procedures to a client device until an error is resolved in the client device. In particular, Jantz teaches a method of "using probabilistic methods for selecting among a plurality of diagnostic procedures to recover from an error condition in a managed device." *See* Jantz at abstract. In this regard, Jantz is directed to a method of resolving errors in a managed device by providing diagnostic recovery procedures.

5.   Response to Claims Rejections

As noted above, the Examiner rejected independent claims 1 and 16 under 35 U.S.C. § 103(a) as being obvious over a combination of Robinson, Basso, and Jantz.

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Under M.P.E.P. § 2143, in order to establish a *prima facie* case of obviousness of a claim over a combination of references, the Examiner must establish that the combination discloses or suggests every element recited in the claim. The cited art fails to disclose various claim elements as set forth below.

      (a)   **The Combination Does Not Disclose a Channel Evaluator Coupled to a Plurality of Channel Resource Devices in a Communication Platform, the Channel Evaluator Generating a Statistical Analysis on the Connection Outcome Results of Previous Call Connection Handled by the Channel Resource Devices**

Neither Robinson, Basso, nor Jantz, alone or in combination, teaches Applicant's claimed invention. Specifically, the combination of the references does not teach the steps required by the presently pending claims, which include "providing a channel evaluator, the channel evaluator coupled to the plurality of channel resource devices in the communication platform" and "obtaining, at the channel evaluator, connection outcome results of previous call connections handled by the channel resource devices wherein the connection outcome results are indicative of channel resource device failures" and "after obtaining connection outcome results, generating, at the channel evaluator, a statistical analysis based at least, in part, on the connection outcome results wherein the generated statistical analysis provides an indication of reliability of the channel resource devices located in the communication platform," as recited in amended claim 1 (and similarly in claim 16).

As noted above, Robinson teaches that each node in network 10 stores a routing table, which includes a ranked set of pre-planned routes. *See* Robinson at column 5, line 66 to column 6, lines 10. In this regard, Robinson's method of routing messages is determined by each node's routing table, which lists a ranked set of planned routes.

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In contrast, Applicant's claimed invention recites a method of assigning an incoming call according to a channel evaluator that is coupled to a plurality of channel resource devices, in which the channel evaluator (i) obtains connection outcome results of previous call connections handled by the channel resource devices wherein the connection outcome results are indicative of channel resource device failures, and after obtaining connection outcome results (ii) generates, at the channel evaluator, a statistical analysis based at least in part, on the connection outcome results wherein the generated statistical analysis provides an indication of reliability of the channel resource devices located in the communication platform. Applicant finds no teaching in Robinson that the nodes in network 10 are coupled to a channel evaluator, which obtains connection outcome results of previous call connections handled by the channel resource devices and after obtaining connection outcome results, and generates a statistical analysis based at least in part, on the connection outcome results.

On page 2 and 6 of the Final Office Action, the Examiner cited to Robinson's network 10 and asserted that Robinson's network 10 amounts to Applicant's claimed communication platform. In particular, the Examiner asserted that Robinson's node NS amounts to Applicant's claimed ingress port, Robinson's node ND amounts to Applicant's claimed egress port, and elements A, B, H, node NB, node NH amount to Applicant's claimed channel resource devices. *See* Final Office Action at page 2.

Nowhere does Applicant find that Robinson differentiates between the nodes in network 10 such that NS is an ingress port, ND is an egress port, and all the remaining nodes (nodes A, B, C, E, F, G, H, J) are channel resource devices. Robinson clearly teaches that NS is a source **node** and ND is a destination **node**, each node having a routing table. *See* Robinson at column 5,

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lines 60-66. In this regard, all nodes shown in Figure 1 are network nodes having a routing table. Yet the Examiner differentiated between the nodes in the network 10 and asserted that Robinson teaches that NS is an ingress port and ND is an egress port and all the remaining nodes are channel resource devices.

Even if one were to assume, for the sake of argument, that (i) Robinson's NS is an ingress port, (ii) Robinson's ND is an egress port, and (iii) nodes A, B, C, E, F, G, H, J are channel resource devices, there is still no teaching of a channel evaluator being coupled to the plurality of nodes in Robinson's network 10, the channel evaluator obtaining connection outcome results of previous call connections handled by Robinson's nodes and after obtaining connection outcome results, generating statistical analysis based at least in part, on the connection outcome results, wherein the generated statistical analysis provides an indication of reliability of the channel resource devices located in the communication platform.

For at least these reasons, Applicant submits that Robinson fails to teach Applicant's claimed invention. Therefore, the issue now at hand is whether the combination of Basso and Jantz makes up for this deficiency in Robinson. Applicant has reviewed Basso and Jantz and submits that these references clearly do not make up for Robinsons' deficiency.

Basso is directed to a method of routing a message from data transmission equipment (DTE) 18 to a destination DTE 20 via one or more nodes in a network. In the event that a link (between two nodes in Basso's network) fails, crankback information is generated and the message is then re-routed to another node in the network. *See* Basso at column 3. line 33-44.

Even if one were to assume for the sake of argument that the nodes in ATM network 10 and the nodes in ATM network 12 are channel resource devices in a communication platform,

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Applicant, however, finds no teaching in Basso that the nodes in ATM network 10 and ATM network 12 are coupled to a channel evaluator, which obtains connection outcome results of previous call connections handled by the channel resource devices, and after obtaining connection outcome results, and generates a statistical analysis based at least in part, on the connection outcome results.

For at least this reason, Applicant submits that the combination of Robinson and Basso fails to teach Applicant's claimed invention. The issue that remains now is whether Jantz makes up for the deficiencies in the combination of Robinson and Basso.

Jantz, as noted above, teaches a method of "using probabilistic methods for selecting among a plurality of diagnostic procedures to recover from an error condition in a managed device." *See* Jantz at abstract. Jantz teaches that the "server calculates a probability value associated with possible recovery procedure." *Id.* column 2, lines 59-61. In this regard, the probability values indicate how successful a particular recovery procedure will be when resolving an error condition. *Id.* at column 2, lines 62-65.

Nowhere does Jantz state that channel resource devices are coupled to a channel evaluator, which obtains connection outcome results of previous call connections handled by the channel resource devices and after obtaining connection outcome results, and the channel evaluator generates a statistical analysis based at least in part, on the connection outcome results, wherein the generated statistical analysis provides an indication of reliability of the channel resource devices located in the communication platform.

Thus, Jantz fails to make up for the deficiencies in Robinson and Basso, and therefore Jantz suffers from the same deficiencies as Robinson and Basso. For at least these reasons, the

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combination of Robinson, Basso, and Jantz fails to teach the steps required by the presently pending claims, which include "providing a channel evaluator, the channel evaluator coupled to the plurality of channel resource devices in the communication platform" and "obtaining, at the channel evaluator, connection outcome results of previous call connections handled by the channel resource devices wherein the connection outcome results are indicative of channel resource device failures" and "after obtaining connection outcome results, generating, at the channel evaluator, a statistical analysis based at least in part, on the connection outcome results wherein the generated statistical analysis provides an indication of reliability of the channel resource devices located in the communication platform."

Because the combination of Robinson, Basso, and Jantz fails to disclose or suggest all of the elements of each of independent claims 1 and 16, a *prima facie* case of obviousness of each of independent claims 1 and 16 has not been made. Therefore, each of independent claims 1 and 16 is allowable. Each of dependent claims 2-12, 14, 15, 17, and 19-27 depends from, and thus incorporates all of the limitations of, an allowable independent claim. Thus, for at least the same reason, these dependent claims are also allowable.

(b) No Motivation to Combine Jantz with Robinson and Basso

Moreover, there is no motivation to combine the teachings of Jantz with Robinson and Basso. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. (MPEP §2143). To make a successful §103(a) obviousness rejection, the Office must show some objective teaching in the prior art or explain how one of ordinary skill in the art would be motivated to combine the relevant teachings. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966).

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Presently, the Examiner has not shown any objective teaching in Robinson, Basso, and Jantz to explain how one of ordinary skill in the art would be motivated to combing Robinson and Basso with Jantz. The Examiner solely relied on column 9, lines 61-64 in Jantz. This portion, as explained above, at best, teaches a method of calculating a statistical analysis based on historical information. The Examiner contended that "it would have been obvious to one of ordinary skill in the art, to modify the system of the combination by updating the link blocking probabilities based upon historical information / crankback and assigning an incoming call based upon the updated link blocking probabilites, as suggested by Jantz." *See* Office Action at page 5. The Examiner reasoned that this "modification would benefit the system the system [sic] by ensuring that the link blocking probabilities reflect the current network environment." *Id.*

Applicant submits that the Examiner has only alleged in a conclusory manner that it would have been obvious to combine the elements of the references without pointing to any objective teaching in the references themselves and reasoned it would have been obvious simply because the modification would benefit the system ensuring that the link blocking probabilities reflect the current network environment.

Applicant submits that it is not obvious to combine the teaching of Jantz with the Robinson and Bass for the benefit of "ensuring that the link blocking probabilities reflect the current network environment." *See* Final Office Action at page 5 and pages 8-9. Robinson is concerned with routing messages using a routing table that has a set of ranked, pre-planned routes. If the primary route fails, then the next ranked route (i.e., secondary route) is selected. Jantz is directed to a method and system for dynamic selection of error recovery procedures in a device. *See* Jantz's title. In particular, Jantz's method involves calculating a probability of

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success based on historical information when an error condition is detected.. *See* Jantz at column 8, lines 33-38. The initial probabilities for each of the recovery procedure are listed. *Id.* And if the error condition remains even after selecting the highest priority recovery procedure, Jantz then re-computes a new set of probabilities. *Id.* at column 8, lines 40-43. Robinson is not concerned with dynamically updating the ranked list of routes by re-computing a new set of probabilities whenever a pre-planned route fails. And the Examiner has not cited to any objective evidence that would suggest that Robinson's method of serially selecting a pre-planned ranked route could be modified so that the selection of routes is instead carried out dynamically and the probabilities are recalculated each time a route fails.

Since the combination of Robinson, Basso, and Jantz does not suggest or teach all claim limitations of claims 1 and 16, and since there is no motivation to make the asserted combination, the Examiner's combination does not render claims 1 and 16 obvious. Therefore, each of independent claims 1 and 16 is allowable. Each of dependent claims 2-12, 14, 15, 17, and 19-27 depends from, and thus incorporates all of the limitations of, an allowable independent claim. Thus, for at least the same reason, these dependent claims are also allowable.

6.   Conclusion

In view of the foregoing, Applicant submits that claims 1-12, 14-17, and 19-27 are allowable, and thus Applicant respectfully requests favorable reconsideration and allowance of these claims. Should the Examiner wish to discuss this case with the undersigned, the Examiner is invited to call the undersigned at (312) 913-3351.

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7. **Payment of Fees**

Applicant believes that no fee is required at this time. However, please charge any underpayment or credit any overpayment to Deposit Account No. 13-2490.

Respectfully submitted,

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Date: October 5, 2007   By: _____/Omar D. Galaria/_____
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